

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION

This document relates to:  
*The County of Summit, Ohio, et al. v. Purdue  
Pharma L.P., et al.*  
Case No. 18-op-45090

and

*The County of Cuyahoga v. Purdue Pharma  
L.P., et al.*  
Case No. 1:18-op-45004

MDL No. 2804

Hon. Judge Dan A. Polster

DECLARATION OF CHRISTIAN J. PISTILLI IN  
SUPPORT OF DISTRIBUTOR DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT ON PROXIMATE CAUSATION GROUNDS

I, Christian J. Pistilli, declare as follows:

1. I am a partner at the law firm of Covington & Burling LLP and counsel to Defendant McKesson Corporation in this action.
2. I make this declaration to place before the Court certain materials relied on in Distributor Defendants' Motion for Summary Judgment on Proximate Causation Grounds.
3. Attached as **Appendix A** is a compilation of record evidence of drug diversion by approximately 1,200 non-distributors in Summit and Cuyahoga Counties.
4. Attached as **Exhibit 1** is a true and correct copy of excerpts from the report of Dr. David Cutler, dated March 25, 2019.

5. Attached as **Exhibit 2** is a true and correct copy of excerpts from the deposition testimony of Dr. Anna Lembke, dated April 24, 2019.

6. Attached as **Exhibit 3** is a true and correct copy of excerpts of “Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs, and Health,” which was published in 2016 by the U.S. Department of Health & Human Services and is available at the following link: <https://addiction.surgeongeneral.gov/sites/default/files/surgeon-generals-report.pdf>.

7. Attached as **Exhibit 4** is a true and correct copy of excerpts from the deposition testimony of Jennifer R. Norris, dated August 7, 2018.

8. Attached as **Exhibit 5** is a true and correct copy of excerpts from the deposition testimony of Eric A. Griffin, dated January 23, 2019.

9. Attached as **Exhibit 6** is a true and correct copy of excerpts from the deposition testimony of Donald Walker, dated January 10, 2019.

10. Attached as **Exhibit 7** is a true and correct copy of excerpts from the report of Dr. Katherine Keyes, dated March 24, 2019.

11. Attached as **Exhibit 8** is a true and correct copy of excerpts from the report of Dr. Mark A. Schumacher, dated March 25, 2019.

12. Attached as **Exhibit 9** is a true and correct copy of excerpts from the report of Dr. David A. Kessler, dated March 26, 2019.

13. Attached as **Exhibit 10** is a true and correct copy of excerpts from the report of Dr. Anna Lembke, dated March 25, 2019.

14. Attached as **Exhibit 11** is a true and correct copy of “The Drug Enforcement Administration, Controlled Substances and Pain Management,” which was published in 2001 by

the federal Drug Enforcement Agency (“DEA”) and is available at the following link:

<https://web.archive.org/web/20011205021713/http://www.deadiversion.usdoj.gov>

[/pubs/nwsltr/spec2001/page10.htm](https://pubs/nwsltr/spec2001/page10.htm).

15. Attached as **Exhibit 12** is a true and correct copy of 71 Fed. Reg. 52,716 (Sept. 6, 2006).

16. Attached as **Exhibit 13** is a true and correct copy of excerpts from the deposition testimony of Stacy Harper-Avilla, dated April 11, 2019.

17. Attached as **Exhibit 14** is a true and correct copy of a July 11, 2017 letter from United States Senators Richard J. Durbin, Sherrod Brown, Amy Klobuchar, Edward J. Markey, Joe Manchin III, Angus S. King, Jr., Dianne Feinstein, Claire McCaskill, Patrick Leahy, Tammy Baldwin, Jeanne Shaheen, Kirsten Gillibrand, Catherine Cortez Masto, Margaret Wood Hassan, Richard Blumenthal, and Al Franken to Chuck Rosenberg, Acting Administrator of DEA. This document was produced in discovery and is marked with Bates numbers CAH\_MDL2804\_00084164 through CAH\_MDL2804\_00084166.

18. Attached as **Exhibit 15** is a true and correct copy of “Aggregate Production Quota History for Selected Substances” for the years 2003–2013, which was published in 2012 by DEA. This document was produced in discovery and is marked with Bates number PAR\_OPIOID\_MDL\_0000386240.

19. Attached as **Exhibit 16** is a true and correct copy of “Aggregate Production Quota History for Selected Substances” for the years 2000–2010, which was published in 2010 by DEA. This document was introduced as Exhibit 7 during the deposition of Stacy Harper-Avilla, dated April 11, 2019.

20. Attached as **Exhibit 17** is a true and correct copy of “Aggregate Production Quota History for Selected Substances” for the years 2009–2019, which was published in 2019 by DEA. This document was introduced as Exhibit 8 during the deposition of Stacy Harper-Avilla, dated April 11, 2019.

21. Attached as **Exhibit 18** is a true and correct copy of excerpts from the deposition testimony of Joseph Rannazzisi, dated April 26 and May 15, 2019.

22. Attached as **Exhibit 19** is a true and correct copy of excerpts from the report of Dr. Craig J. McCann, dated March 25, 2019.

23. Attached as **Exhibit 20** is a true and correct copy of excerpts from the deposition testimony of Dr. David A. Kessler, dated April 25 and 26, 2019.

24. Attached as **Exhibit 21** is a true and correct copy of excerpts from the deposition testimony of Dr. Mark A. Schumacher, dated April 23, 2019.

25. Attached as **Exhibit 22** is a true and correct copy of excerpts from the report of Dr. Meredith B. Rosenthal, dated March 25, 2019.

26. Attached as **Exhibit 23** is a true and correct copy of excerpts from the deposition testimony of Dr. Meredith B. Rosenthal, dated May 4 and 5, 2019.

27. Attached as **Exhibit 24** is a true and correct copy of excerpts from the deposition testimony of Dr. Matthew Perri, dated April 23 and 24, 2019.

28. Attached as **Exhibit 25** is a true and correct copy of excerpts from the deposition testimony of Dr. Craig J. McCann, dated May 9 and 10, 2019.

29. Attached as **Exhibit 26** is a true and correct copy of excerpts from the deposition testimony of Dr. David Cutler, dated April 26 and 27, 2019.

30. Attached as **Exhibit 27** is a true and correct copy of excerpts from the report of James E. Rafalski, dated April 15, 2019, introduced as Exhibit 15 during the deposition of James E. Rafalski, dated May 13 and 14, 2019.

31. Attached as **Exhibit 28** is a true and correct copy of excerpts from the deposition testimony of James E. Rafalski, dated May 13 and 14, 2019.

32. Attached as **Exhibit 29** is a true and correct copy of excerpts from the deposition testimony of Kyle J. Wright, dated February 28 and March 4, 2019.

33. Attached as **Exhibit 30** is a true and correct copy of excerpts from the deposition testimony of Patrick Leonard, dated January 31, March 27, and May 23, 2019.

34. Attached as **Exhibit 31** is a true and correct copy of excerpts from the deposition testimony of Dr. Douglas A. Smith, dated November 16, 2018.

35. Attached as **Exhibit 32** is a true and correct copy of excerpts from the deposition testimony of Eugene G. Cavacini, dated January 25, 2019.

36. Attached as **Exhibit 33** is a true and correct copy of excerpts from the deposition testimony of George Euson, dated November 27, 2018.

37. Attached as **Exhibit 34** is a true and correct copy of excerpts from the deposition testimony of Gary L. Boggs, dated January 17, 2019.

38. Attached as **Exhibit 35** is a true and correct copy of excerpts from the deposition testimony of Christopher J. Forst, dated January 22, 2018.

39. Attached as **Exhibit 36** is a true and correct copy of excerpts from the deposition testimony of Calvin D. Williams, dated December 5, 2018 and March 29, 2019

40. Attached as **Exhibit 37** is a true and correct copy of excerpts from the deposition testimony of Michael Connelly, dated November 7, 2019.

41. Attached as **Exhibit 38** is a true and correct copy of excerpts from the deposition testimony of Scott Moran, dated December 20, 2018 and March 27, 2019.

42. Attached as **Exhibit 39** is a true and correct copy of a press release from the Department of Justice, U.S. Attorney's Office, "Cleveland Man Sentenced To 12 Years In Prison For Leading Ring That Obtained Blank Prescriptions, Forged Them And Sold The Painkillers," dated June 11, 2013. This document was produced in discovery and is marked with Bates numbers MCKPUB00004152 through MCKPUB00004154.

43. Attached as **Exhibit 40** is a true and correct copy of excerpts from the deposition testimony of Brad Gessner, dated December 3, 2018.

44. Attached as **Exhibit 41** is a true and correct copy of documents relating to the prosecution of Heather R. Mitchell, which were produced in discovery and are marked with Bates numbers MCKPUB00024322 through MCKPUB00024427.

45. Attached as **Exhibit 42** is a true and correct copy of excerpts from the report of Dr. Thomas McGuire, dated March 25, 2019.

46. Attached as **Exhibit 43** is a true and correct copy of excerpts from the deposition testimony of Derek Siegle, dated January 23, 2019.

47. Attached as **Exhibit 44** is a true and correct copy of excerpts from the deposition testimony of Matthew Paolino, dated December 5, 2018.

48. Attached as **Exhibit 45** is a true and correct copy of excerpts from the deposition testimony of Claire Kaspar, dated January 15, 2019.

49. Attached as **Exhibit 46** is a true and correct copy of excerpts from the deposition testimony of James A. Gutierrez, dated January 31, 2019.

50. Attached as **Exhibit 47** is a true and correct copy of excerpts from the deposition testimony of Matthew Baeppler, dated January 17, 2019.

51. Attached as **Exhibit 48** is a true and correct copy of excerpts from the deposition testimony of Gerald Craig, dated January 11, 2019.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of June, 2019, in Washington, D.C.

  

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CHRISTIAN J. PISTILLI

**CERTIFICATE OF SERVICE**

I, Geoffrey E. Hobart, hereby certify that the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ Geoffrey E. Hobart  
GEOFFREY E. HOBART